

Application No.: 09/857,611

Docket No.: 21854-00019-US

REMARKS*Introduction*

Receipt of the Office Action mailed May 21, 2003 is acknowledged. The present amendment cancels claim 17 without prejudice or disclaimer and adds new claims 22 and 23. Claim 12 has also been amended in formal regards and other claims are amended to be consistent therewith. No new matter has been added. A Declaration executed by Dr. Christie is submitted herewith to provide further basis of the patentability of the present claims. Entry of the amendment and favorable reconsideration thereof in view of the instant Christie Declaration are earnestly solicited.

Claims 12-16 and 18-23 are pending.

The Restriction Requirement

On page 2-3 of the Action, the Examiner has withdrawn claims 20-21 from consideration as allegedly being directed to a different invention from claims 12-19. While Applicants respectfully traverse this restriction, claim 20 has been amended to depend on claim 12 and hence, is examinable and allowable together with claim 12 pursuant to the *In re Ochiai* guidelines. Rejoinder is respectfully requested.

Rejection Based on Mayer in view of Tomka

On page 3 of the Action, claims 12-19 have been rejected under 35 USC 103(a) over Mayer in view of Tomka. This rejection is respectfully traversed for at least the following reasons. First of all, during an interview held recently, Applicants discussed with the Examiner certain unexpected benefits associated with the claimed invention. Certain of these benefits are set forth in detail in the Christie Declaration that is submitted concurrently herewith. Namely, it was completely unexpected that a modified starch polymer product could be produced using water as claimed, and without the necessity of at least more than 10% plasticizer. Indeed, in some embodiments of the present invention, substantially no plasticizer is utilized except the water (see claims 16 and 23). It was completely unexpected that a hydrous based system as claimed could have such beneficial biodegradability properties while having a cost reduction due

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to a reduced the reduced amounts of plasticizer (0-10%, while the prior art used at least 10% and usually more than 10%). Also the polyvinylacetate and/or polyvinyl alcohol polymer of component (b) was also reduced to from 4-11% and that reduction also was a significant cost saving. There was simply no teaching or suggestion that these modifications could be made to prior products and still have a satisfactory biodegradable product. There is no motivation in the prior art being relied upon by the PTO to prepare such polymer products as set forth in present independent claims 12 and 22 or any of the claims dependent thereon. In this regard, Mayer employs from 20-80% polyvinyl alcohol or ethylene vinyl alcohol and 10-20% plasticizer. There is no motivation to reduce either of these components provided in Mayer or in Tomka. Indeed, Tomka teaches just the opposite, to keep water out completely and to utilize 10-35% plasticizer (even MORE than Mayer teaches). See Christie Declaration, particularly at paragraph 12.

The instant rejection is therefore improper and should be withdrawn.

Conclusion

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. According, the Examiner is respectfully requested to pass this application to issue.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 22-0185, under Order No. 21854-00019-US from which the undersigned is authorized to draw.

Dated: August 18, 2003

Respectfully submitted,

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